

# Exhibit A

## General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☒ State Court of Gwinnett State Court County

## For Clerk Use Only

Date Filed \_\_\_\_\_  
MM-DD-YYYYCase Number 23-C-08417-S1

## Plaintiff(s)

Vaughan, Michael

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

## Defendant(s)

Implus Footcare, LLC

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Plaintiff's Attorney William Maxwell ComptonState Bar Number 380092Self-Represented ☐

Check one case type and one sub-type in the same box (if a sub-type applies):

## General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Contract
- ☐ Garnishment
- ☐ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☒ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

## Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
- ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
- ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

☐ Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1.

☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

Language(s) Required

☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

**Michael Vaughan**

CIVIL ACTION

NUMBER: \_\_\_\_\_

PLAINTIFF

23-C-08417-S1

VS.

**IMPLUS FOOTCARE, LLC**

DEFENDANT

**SUMMONS**

TO THE ABOVE NAMED DEFENDANT: Implus Footcare, LLC

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

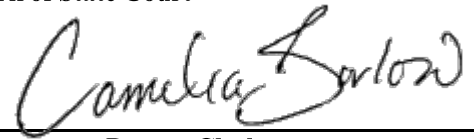
Max Compton  
200 Stephenson Ave., Suite 200  
Savannah, GA 31405

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

13th day of November, 2023

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Tiana P. Garner  
Clerk of State Court

By  \_\_\_\_\_  
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

**23-C-08417-S1**

**11/13/2023 11:56 AM**  
TIANA P. GARNER, CLERK

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

**Michael Vaughan**

CIVIL ACTION  
NUMBER: \_\_\_\_\_

PLAINTIFF

23-C-08417-S1

VS.

**IMPLUS FOOTCARE, LLC**

DEFENDANT

**SUMMONS**

**TO THE ABOVE NAMED DEFENDANT: Implus Footcare, LLC**

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Max Compton  
200 Stephenson Ave., Suite 200  
Savannah, GA 31405

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

13th day of November, 2023

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tiana P. Garner  
Clerk of State Court

By  \_\_\_\_\_  
Deputy Clerk

**INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.**

**IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA**

MICHAEL VAUGHAN,

Civil Action

Plaintiff,

File No.: \_\_\_\_\_

v.

IMPLUS FOOTCARE, LLC

23-C-08417-S1

Defendant.

**COMPLAINT**

COMES NOW, Plaintiff, MICHAEL VAUGHAN, (hereinafter "Plaintiff" or "VAUGHAN"), by and through undersigned counsel, and sues Defendant, IMPLUS FOOTCARE, LLC (hereinafter "IMPLUS") for the causes of action stated herein. In support thereof, Plaintiff states:

**INTRODUCTION**

1. This case arises out of the severe, permanent, and life-altering injuries VAUGHAN suffered when a defective SKILZ athletic training equipment (hereinafter "the Subject Band") failed during ordinary use, elastic energy was released, and a component of the Subject Band snapped back into VAUGHAN in the left eye.

2. Through this lawsuit, VAUGHAN seeks to hold Defendant, IMPLUS, responsible for its role in designing, manufacturing, producing, distributing, and selling the Subject Band.

**THE PARTIES, JURISDICTION, AND VENUE**

3. VAUGHAN is a Georgia citizen, resident, and domiciliary.

4. IMPLUS is a Delaware corporation with its principal place of business located at 2001 T.W. Alexander Drive, Durham, NC 27709-3925.

5. IMPLUS may be served with process by serving its registered agent at its registered office in Georgia – Corporation Service Company 2 Sun Court Suite 400 Peachtree Corners, GA 30092, Gwinnett County.

6. This Court has subject matter jurisdiction pursuant to O.C.G.A. § 15-6-8 and the Georgia State Constitution.

7. This Court is authorized to exercise personal jurisdiction over IMPLUS pursuant to the Georgia Long-Arm Statute, O.C.G.A. § 9-10-91, because the causes of action stated herein arise out of IMPLUS transacting business within Georgia and committing a tortious act or omission within Georgia.

8. This Court is authorized to exercise personal jurisdiction over IMPLUS because IMPLUS is engaged in such regular, continuous, and systematic business in Georgia that IMPLUS may fairly be regarded as at home in Georgia, and because it has a registered agent for service of process and thus consented to jurisdiction in Georgia.

9. Pursuant to O.C.G.A. § 14-2-510(b)(1) venue is proper in this Court because IMPLUS maintains its registered office and agent in Gwinnett County.

#### **STATEMENT OF FACTS**

10. IMPLUS is in the business of and derives substantial revenue from designing, manufacturing, producing, importing, supplying, distributing, and selling athletic training band products under their brand name SKLZ.

11. In late 2019, VAUGHAN purchased the Subject Band from commissary when he was serving overseas.

12. On or about February 3, 2023, at a friend's house in Rome, Georgia, and during ordinary use, the Subject Band failed, elastic energy was released, and a component of the Subject Band snapped back into VAUGHAN in the left eye.

13. As a direct and proximate result of the above VAUGHAN's left eye sustained severe laceration and left him permanently blind in his left eye.

14. All conditions precedent have been performed or have occurred.

**COUNT I – STRICT LIABILITY OF DEFENDANT**

15. VAUGHAN re-alleges, adopts, and incorporates Paragraphs 1 through 14 of this Complaint as if fully stated herein.

16. IMPLUS designed, engineered, manufactured, produced, imported, distributed, and sold, the Subject Band.

17. The Subject Band is defective in its design, warning, instruction, production, marketing, distribution, and sale.

18. The Subject Band's defective condition rendered the Subject Band not merchantable or reasonably suited for its intended use.

19. The Subject Band's defective condition actually and proximately caused VAUGHAN's injuries and damages.

**WHEREFORE**, Plaintiff, MICHAEL VAUGHAN, demands judgment against Defendant, IMPLUS FOOTCARE LLC, for all injuries and damages he sustained as a result of the incident giving rise to this lawsuit, whether already incurred or to be incurred in the future, including all actual damages, consequential damages, economic damages, non-economic damages, lost wages, lost earning capacity, mental anguish, emotional distress, pain and suffering, costs, and interest, and for any such further relief as the Court deems appropriate.

**COUNT II – NEGLIGENCE**

20. VAUGHAN re-alleges, adopts, and incorporates Paragraphs 1 through 14 of this Complaint as if fully stated herein.

21. IMPLUS designed, engineered, manufactured, produced, imported, distributed, and sold, the Subject Band.

22. The Subject Band is defective in its design, warning, instruction, production, marketing, distribution, and sale.

23. IMPLUS owed a duty to design, engineer, manufacture, produce, import, distribute, and supply the Subject Band in a condition that was not defective.

24. IMPLUS owed a duty to provide adequate and feasible warnings and instructions with the Subject Band.

25. IMPLUS owed a duty to issue adequate and feasible post-sale warnings and instructions regarding the Subject Band's defective condition.

26. IMPLUS breached these duties.

27. IMPLUS breaches actually and proximately caused VAUGHAN's injuries and damages.

**WHEREFORE**, Plaintiff, MICHAEL VAUGHAN, demands judgment against Defendant, IMPLUS FOOTCARE LLC, for all injuries and damages he sustained as a result of the incident giving rise to this lawsuit, whether already incurred or to be incurred in the future, including all actual damages, consequential damages, economic damages, non-economic damages, lost wages, lost earning capacity, mental anguish, emotional distress, pain and suffering, costs, and interest, and for any such further relief as the Court deems appropriate.



**COUNT III – BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

28. VAUGHAN re-alleges, adopts, and incorporates Paragraphs 1 through 14 of this Complaint as if fully stated herein.

29. IMPLUS is in the business of and derives substantial revenue from designing, manufacturing, producing, importing, supplying, distributing, and selling athletic training band products under their brand name SKLZ.

30. Pursuant to O.C.G.A § 11-2-105, the Subject Band is a good.

31. IMPLUS is a merchant with respect to the Subject Band.

32. At the time IMPLUS placed the Subject Band into the stream of commerce, and when VAUGHAN purchased the Subject Band it was defective and not merchantable.

33. IMPLUS thereby breached the implied warranty of merchantability that accompanied its sale of the Subject Band to VAUGHAN.

34. IMPLUS' breach of the implied warranty of merchantability actually and proximately caused VAUGHAN'S injuries and damages.

35. VAUGHAN provided express notice to IMPLUS of IMPLUS' breach of the implied warranty of merchantability prior to filing this lawsuit. *See Exhibit A.*

**WHEREFORE**, Plaintiff, MICHAEL VAUGHAN, demands judgment against Defendant, IMPLUS FOOTCARE, LLC, for all injuries and damages he sustained as a result of the incident giving rise to this lawsuit, whether already incurred or to be incurred in the future, including all actual damages, consequential damages, economic damages, non-economic damages, lost wages, lost earning capacity, mental anguish, emotional distress, pain and suffering, costs, and interest, and for any such further relief as the Court deems appropriate.

**COUNT IV – EXPENSES OF LITIGATION**

36. VAUGHAN re-alleges, adopts, and incorporates Paragraphs 1 through 35 of this Complaint as if fully stated herein.

37. IMPLUS has acted in bad faith, been stubbornly litigious and has caused Plaintiff unnecessary trouble and expense.

38. IMPLUS is thus liable for, and VAUGHAN makes claim for, VAUGHAN'S expenses of litigation, including court and litigation costs, and attorney's fees pursuant to O.C.G.A. § 13-6-11 and other applicable law.

**DEMAND FOR JURY TRIAL**

Plaintiff, VAUGHAN, hereby demands a trial by jury on all issues so triable.

Respectfully submitted on November 13, 2023.

**MORGAN & MORGAN**

*/s/ Max Compton*

---

William Maxwell Compton  
Georgia Bar No. 380092  
Counsel for Plaintiff

200 Stephenson Ave., Suite 200  
Savannah, GA 31405  
(912) 443-1017 - Direct  
(912) 443-1184 – Facsimile  
MCompton@forthepeople.com

*/s/ Harris Yegelwel*

Harris Yegelwel, Esq.

*Pro Hac Vice Forthcoming*

Florida Bar No.: 0124285

**MORGAN & MORGAN, P.A.**

20 N. Orange Ave., Suite 1600

Orlando, FL 32801

Telephone: 407-418-2081

Primary email: [hyegewel@forthepeople.com](mailto:hyegewel@forthepeople.com)

Secondary Email: [heatherperez@forthepeople.com](mailto:heatherperez@forthepeople.com)

## EXHIBIT A TO PLAINTIFF'S COMPLAINT



Morgan & Morgan, P.A.  
20 North Orange Avenue  
Suite 1600  
Orlando, Florida 32801  
(407) 420-1414

September 19, 2023

**SENT VIA US CERTIFIED MAIL AND VIA EMAIL:**

Email: [HELP@4IMPLUS.COM](mailto:HELP@4IMPLUS.COM)



IMPLUS LLC

**Attention: Michael Polk. Registered Agent**  
2001 T.W. Alexander Drive  
Durham, NC 27709-3925, USA

**RE: Michael Vaughan v. Implus Footcare, LLC**  
**Statutory Notice of Breach of Warranties & GA 33-3-28 Insurance Disclosure Request**

Dear Mr. Polk:

Our firm has the privilege of representing Mr. Michael Vaughan for the severe injuries he suffered from a defective SKLZ Workout Pro Band you sold, and which catastrophically failed. The workout band at issue was sold by <https://sklz.com/athletic-training.html?p=3> and it was marketed/advertised as SKLZ Pro Bands.

Please allow this correspondence to serve as express notice pursuant to sections 11-2-607 and 11-2-714, Georgia Code Annotated, that Mr. Michael Vaughan's injuries were caused by **Implus Footcare, LLC's** breach of the implied warranties of merchantability and of fitness for a particular purpose and that Mr. Michael Vaughan demands cure for the same.

**IN ADDITION: PURSUANT TO SECTION 33-3-28 O.C.G.A. YOU ARE REQUIRED TO DISCLOSE WHETHER OR NOT YOU CARRY LIABILITY INSURANCE AND THE APPLICABLE LIMITS. THIS IS NOT A PERMISSIVE STATUTE.**

LACK OF NOTIFICATION TO YOUR INSURANCE COMPANY MAY RESULT IN PREJUDICE. We would appreciate your completing and returning the attached Information Sheet immediately so that we may communicate directly with your insurance company thereby avoiding any prejudice or inconvenience to you.

If you do not have insurance, please contact this office as soon as possible. If we do not receive a response back, I will likely be forced to file a lawsuit.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Harris I. Yegelwel". The signature is written in a cursive, somewhat stylized font.

Harris I. Yegelwel, Esquire

**INSURANCE INFORMATION SHEET**

Our Client: Michael Vaughan  
Date/Loss: February 3, 2023

1. Name and address of insurance company: \_\_\_\_\_  
\_\_\_\_\_
2. Bodily Injury Liability Limits: \_\_\_\_\_  
\_\_\_\_\_
3. Name of Insured: \_\_\_\_\_  
\_\_\_\_\_
4. Your Policy Number: \_\_\_\_\_  
\_\_\_\_\_
5. Effective Dates of Policy: \_\_\_\_\_  
\_\_\_\_\_
6. Your Complete Name: \_\_\_\_\_  
\_\_\_\_\_

**DISTRIBUTOR/MANUFACTURER INFORMATION SHEET**

Our Client: Michael Vaughan  
Date/Loss: February 3, 2023

1. SKLZ Pro Bands:

\_\_\_\_\_  
\_\_\_\_\_

HIY/hp

\_\_\_\_\_

AFFIDAVIT OF SERVICE

State of Georgia

County of Gwinnett

State Court

Case Number: 23-C-08417-S1



LIN2023051960

Plaintiff:

**MICHAEL VAUGHAN**

vs.

Defendant:

**IMPLUS FOOTCARE, LLC**

For:

W. Maxwell Compton  
Morgan & Morgan, P.A.  
25 Bull Street  
Suite 400  
Savannah, GA 31401Received by Lynx Legal Services, LLC on the 13th day of November, 2023 at 5:04 pm to be served on **Implus Footcare, LLC c/o Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092**I, Jason Garmon, being duly sworn, depose and say that on the **15th day of November, 2023** at **9:31 am**, I:served an **LLC, LP or LLP** by delivering a true copy of the **30-Day Summons, Complaint, and Exhibit A** with the date and hour of service endorsed thereon by me, to: **Alisha Smith** as **CSC Coordinator** of **Implus Footcare, LLC**, at the address of: **2 Sun Court, Suite 400, Peachtree Corners, GA 30092**, and informed said person of the contents therein, in compliance with F.S. 48.061 and F.S. 48.062.**Description** of Person Served: Age: 33 to 38, Sex: F, Race/Skin Color: Black, Height: 5'4" to 5'9", Weight: 140 to 145, Hair: Black, Glasses: N, Eyes: Brown

I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under the penalty of perjury, I declare that I have read the foregoing proof of service, and I attest that the facts stated in it are true.

Subscribed and Sworn to before me by means of ☒ Physical Presence or ☐ Online Notarization on the 15 day of NOVEMBER, 2023, by the affiant who is personally known to me.

NOTARY PUBLIC

  
Jason Garmon  
Process ServerLynx Legal Services, LLC  
201 E. Pine Street  
Suite 740  
Orlando, FL 32801  
(407) 872-0707Our Job Serial Number: LIN-2023051960  
Ref: 14287541